

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

RICKY L. RASH,
Plaintiff,

v.

STRYKER CORPORATION,
STRYKER SALES CORPORATION,
and STRYKER INSTRUMENTS,
Defendants.

CIVIL ACTION NO.: 1:08-CV-00015

RULE 41(a)(1)(ii) STIPULATION OF DISMISSAL

The parties, plaintiff Ricky L. Rash (“Plaintiff”) and defendants Stryker Corporation, Stryker Sales Corporation, and Stryker Instruments (collectively “Defendants”), by counsel, hereby STIPULATE to the DISMISSAL of this action in its entirety and WITHOUT PREJUDICE, pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii). In consideration for Defendants’ consent and agreement to this voluntary dismissal without prejudice, Plaintiff agrees that if he, or anyone acting on his behalf, re-files this action or a similar action against Defendants, or any of Defendants’ agents or employees, for injuries or damages allegedly arising out of the events, facts, and/or circumstances allegedly underlying and giving rise to the present action:

- 1) He will file such action in the United States District Court for the Western District of Virginia, Abingdon Division;
 - 2) He will not name any additional, non-diverse parties as defendants to such action;
- and

3) He will re-file within 180 days of the date this Stipulation of Dismissal is filed with the Court.

In agreeing to this Stipulation of Dismissal, Defendants do not waive, and specifically preserve, all defenses available to them, including, but not limited to, the statute of limitations.

In the event this action is not re-filed within 180 days, this Stipulation of Dismissal shall be considered a dismissal with prejudice, and if necessary, in such case Plaintiff consents to filing any further stipulation or joint motion necessary to effectuate a dismissal with prejudice.

DATED: June 4, 2009

Respectfully submitted,

RICKY L. RASH

STRYKER CORPORATION, STRYKER
SALES CORPORATION, and STRYKER
INSTRUMENTS

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